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KENTUCKY  
STATE CONVENTION.

## OFFICIAL REPORTS.

MR. R. SUTTON, CHIEF REPORTER.

WEDNESDAY, DECEMBER 19, 1849.

Prayer by the Rev. Mr. LANCASTER.

## READINGS OF THE CONSTITUTION.

MESSRS. T. J. HOOD, PRICE AND KELLY, asked and obtained leave to vote on the resolution of Mr. C. A. WICKLIFFE, which was adopted last night, by which the convention agreed to take a recess until the first Monday in June. They severally voted "nay," and the final result therefore stands, yeas 56, nays 41.

## COMMITTEE OF REVISION.

Mr. McHENRY, from the committee of revision, made a further report, and the amendments and modifications in the articles of the constitution which they suggested, were agreed to.

## CONTESTED ELECTION FOR CASEY COUNTY.

Mr. HARDIN, from the committee to which was referred the petition of sundry citizens of Casey county, in relation to the election of the delegate from that county, asked that the committee be discharged from the further consideration of the subject, which was agreed to.

## DEPOSIT OF THE CONSTITUTION.

On the motion of Mr. MERIWETHER, it was Resolved, That one copy of the constitution, which the secretary is directed to prepare, shall be deposited with the president of this convention, and the other with the secretary, during the recess.

## POWER TO FILL VACANCIES.

On the motion of Mr. GARRARD, it was Resolved, That the president be, and he is hereby, authorized to issue a writ of election to fill any vacancy that may occur in this convention before the final adjournment.

## RECONSIDERATION.

Mr. APPERSON. The vote given by me for the nineteenth section of the report on general provisions, I am not satisfied with, and therefore do now move a re-consideration of the vote by which that section was adopted. In making this motion, I have no expectation that a reconsideration will be obtained, but being satisfied that my vote was wrong, I desire to place myself right on the record. The proposition is an abstract one, having, in my judgment, no right to a place in the constitution. Nothing practical can grow out of it, even though the proposition be assumed as true, which I do, by no means, admit. For the first time during the session of this convention, I call for the yeas and nays on the motion to re-consider.

On motion, the rule which requires a notice to reconsider to lie over, was dispensed with, and, on the motion to re-consider, the vote was—yeas 25, nays 64.

YEAS—Mr. President, (Guthrie) Richard Apperson, John S. Barlow, Francis M. Bristow, Chastain T. Dunaway, Alfred Elliott, Ben. Hardin, Vincent S. Hay, William Hendrix, Andrew Hood, Alfred M. Jackson, Thomas N. Lindsey, Alexander K. Marshall, John H. McHenry, David Meriwether, Wm. D. Mitchell, Thos. P. Moore, Hugh Newell, Ira Root, William R. Thompson, Squire Turner, John T. Waller, Charles A. Wickliffe, George W. Williams, Silas Woodson—25.

NAYS—John L. Ballinger, Alfred Boyd, Wm. Bradley, Luther Brawner, Thomas D. Brown, William C. Bullitt, William Chenault, James S. Chrisman, Beverly L. Clarke, Jesse Coffey, Henry R. D. Coleman, Benjamin Copelin, William Cowper, Edward C. Curd, Lucius Desha, Archibald Dixon, James Dudley, Benjamin F. Edwards, Green Forrest, Nathan Gaither, Solucius Garfield, James H. Garrard, Richard D. Ghoslin, Thomas J. Gough, Ninian E. Gray, Thos. J. Hood, Mark E. Huston, James W. Irwin, Thomas James, William Johnson, George W. Johnston, Charles C. Kelly, James M. Lackey, Peter Lasbrooke, Thomas W. Lisle, Willis B. Machen, George W. Mansfield, William C. Marshall, William N. Marshall, Robert D. Maupin, Richard L. Mayes, Nathan McClure, James M. Nesbitt, Elijah F. Nuttall, Henry B. Pollard, Johnson Price, Larkin J. Proctor, John T. Robinson, Thos. Rockhold, John T. Rogers, Ignatius A. Spalding, John W. Stevenson, James W. Stone, Michael L. Stoner, Albert G. Talbot, John D. Taylor, John J. Thurman, Howard Todd, Philip Triplett, Henry Washington, John Wheeler, Andrew S. White, Robert N. Wickliffe, Wesley J. Wright.

So the convention refused to re-consider.

## COMMITTEE OF ENROLLMENT.

On the motion of Mr. BRADLEY, it was Resolved, That a committee of enrollment, to consist of five delegates, be appointed by the president, for the purpose of comparing the enrolled constitution with the engrossed copy; and that said committee report their action to the convention.

The President appointed Messrs. Bradley, Boyd, Apperson, G. W. Howard, and Preston, as that committee.

## MISCELLANEOUS PROVISIONS.

Mr. STEVENSON, from the committee on miscellaneous provisions, to which was re-committed the report of that committee, made on the 15th instant, reported the same back to the convention, with an amendment, in accordance with the decision of the convention on the adoption of the resolution of Mr. C. A. WICKLIFFE. The sections reported were as follows:

"That the general assembly of the commonwealth of Kentucky do assemble, be, and they are hereby, requested to make all necessary provisions, by law, for the proper carrying out of the submission of the new constitution to the people of this commonwealth, as provided for in section four, of this schedule.

"That when this convention adjourns it will adjourn to re-assemble in the town of Frankfort, on the first Monday of June, 1850, with the view, and for the purpose, of ascertaining the result of the vote upon the new constitution. If the same shall have been ratified by a majority of all those voting for and against it, this convention will then publish or proclaim the new constitution as the 'Constitution of Kentucky,' and proceed further to provide for putting the new government into operation. If it shall be found that a majority of all those voting for and against it, has been cast against it, then said constitution shall be declared rejected, and this convention will forthwith re-adopt and re-publish the present constitution as the constitution of the state."

Mr. JAMES moved to amend the fourth section of the report by adding "Tuesday" after the word "Monday" so as to provide that the poll shall be opened two days instead of one, in the month of May, to take the sense of the people on the new constitution.

A brief conversation ensued on the amendment, in which Mr. STEVENSON, Mr. C. A. WICKLIFFE, Mr. JAMES, Mr. BRADLEY, and others took part.

The amendment was agreed to. Mr. POLLARD moved to strike out the words "first Monday and Tuesday of May" and insert the words "second Monday and Tuesday of April."

The amendment was rejected.

Mr. GRAY moved to amend the fourth section by inserting after the words "general assembly" in the 26th line, the following: "At the same time and place, and in the same manner, the sense of the people of the state shall be taken, in regard to the mode of revising the constitution, and regulating taxation. It shall be the duty of the several sheriffs and clerks of the courts, to propound to each voter the following questions: 'Are you for or against the duty of revising the constitution?' 'Are you for or against the provision, that taxation shall be equal and uniform, and imposed upon property in proportion to its value?' And said officers shall, in the same manner, make due return to the secretary of state, of the votes cast, for and against each of said propositions."

The amendment was not agreed to. Mr. BROWN moved to amend the section, by adding the following:

"And any sheriff, or other acting officer, who shall fail to perform the duties herein prescribed, such sheriff or other returning officer, failing, shall be liable to all the fines and penalties, now prescribed by law for failing to perform their respective duties."

Mr. C. A. WICKLIFFE. I may as well ask the indulgence of the house, to make a few remarks on the proposition I should make, circumstances as I am in relation to the vote of last night. I do not think we can set ourselves up to prescribe penalties and enforce, by judgments of law, fines and imprisonments, make them obligatory; neither do we possess the power to refer the question to any one to say what shall be the constitution of Kentucky, to any private and personal inconvenience, speaking through this convention. It was therefore, under this opinion, that I ventured to offer the resolution I did, that the convention should take a recess as it proposes, and meet again and perform the last and final official act required at our hands, in the proceeding, as the immediate delegates of the people, the constitution that shall govern them and their posterity, when we shall be satisfied that that constitution shall have met the approbation of the people for whom it was made. I entertain the opinion that the constitution of Kentucky must emanate from the people, and not from any human agency or organ to proclaim that fact, as we were, to be the delegates chosen by the people to perform this work. That we could not, in the language of the gentleman from Jessamine, any more delegate this high and final act to any human tribunal over whose official action we had control, after our adjournment, any more than we could delegate the whole power with which we were clothed by the people. Could I, had I brought my mind to the conclusion that we could do this and comply with the solemn duty imposed on me, I should have most cheerfully closed my labors not only in this convention, but in any other assembly that may hereafter assemble in this commonwealth. The house decided this question upon its best judgment. They sustained that resolution. I know some gentlemen were influenced by the apprehension, that if this convention were dissolved by final adjournment, certain combinations would be gotten up, and the labors of the assembly would be ultimately defeated by a vote of the people. These considerations, however, did not influence my action, or control my judgment in the vote I gave on that resolution. I had no want of confidence in the public functionaries. I did not distrust their fidelity, or their disposition to carry out what might seem to be the wishes of the convention, and the final action of the people, but I was unwilling to transfer, beyond the control of this convention, the power to do that which I believed was required to be done at my hands, the final act of proclaiming the constitution.

But I have had read to us a lecture on, on conduct last evening, which I confess I do not very well relish. Coming from the high source and respectable quarter it does, I have thought it proper to state the reasons and grounds upon which I acted. The editor, after speaking of the resolution, and proclaiming as a fact known to all, that the new constitution was organized arrangements to defeat the new constitution, brings to our minds the promises made by the convention party, that the constitution should be submitted to the people for their ratification or rejection, and to choose between the old and new constitution, and reminds us of the promises made during the canvass for seats on the new constitution, that the people should be the people. We are told that all these promises, pledges are about to be violated, that by the resolution which was adopted, the people we represent are about to be defrauded and cheated by the delegates of this house; that submission is a "mere form, an idle mockery." The mode and manner in which this convention is to submit this constitution to the people, the mode and manner in which we have advocated the carrying out of that judgment, whatever it may be, is announced by the printer to this house, as a "mere form, an idle mockery," as a violation of the high pledges—the sacred pledges—made to the people. What do you propose to do by the resolution? That the people shall meet in the most solemn form known to a free people, fully informed, so far as we can inform them by throwing out our work before them, in order that they shall decide by their votes, whether they will accept the work proposed, as a constitution of this commonwealth. Is this an idle ceremony? Is this mere mockery? Is this to be proclaimed from the capital of the commonwealth, before we disperse, as a violation of the pledges we have made? What else could we propose? Had we adjourned, and suppose the result of that vote should have been left to the chances of human agency, as I remarked, over which we have no control—had we left the result to chance, since I admit there is a remote possibility of equal votes in determining this question, then we have no power to settle the controversy between the old and new constitution; had we adjourned, leaving this question to be affected by spurious and illegal votes, with no power to purge the polls, with no persons, save the office-holders, to look out the spurious votes, on one side or the other, with no power to make such provision as is necessary to ascertain the final result—suppose, then, we would have been considered as having been faithlessly carried out our pledges, and the people would have had a fair chance to vote for the adoption of the new constitution, or for the retention of the old one. But what is this conjecture? What are the apprehensions of gentlemen? That if the people of Kentucky, after they have looked at our work, shall become satisfied that the change of the tenure of office, and the mode of appointment, that the whole principles of the constitution are wrong—that the old system of appointment and the tenure of office—the frame work and principles of the construction of government, as prescribed by the old constitution, were preferred by them—that we should come back as a set of usurpers, as corrupt delegates, as men unworthy the places we occupy, and again attempt to re-establish the same principles of the same

constitution, forcing it upon the people against their will, and proclaiming it as the constitution, or again to re-submit it to the people for approval or condemnation. I act in public life as I do in private life, upon the presumption that my fellow-men are honest till the contrary appears; and that man, that delegate on this floor, who after the people shall have proclaimed their judgment against this constitution, and their preference for the old, who shall dare to get up and propose to re-enact the same constitution, in principle if not in detail, will only manifest a degree of political boldness and desperation which could not find approval in a majority of a hundred delegates, constituted as this house is. He would be condemned as unworthy a seat on this floor. No, I for one approved that resolution, and as one who voted for it, as one who intends, as far as his feeble abilities will enable him, explain the constitution to the people who have honored him with their confidence, I will maintain it in its whole as the best that could be expected to emanate from the hands of a hundred men who necessarily had to compromise much of individual opinion and thought.

If, after this is done, and a majority of the people of Kentucky shall reject that constitution, because of a preference for the principles of the old one, I should return here not feeling, in the language of some gentlemen who spoke of themselves yesterday, a disgraced man, or as one who feels disappointed with reference to the fruits of his humble labors, but one who will bow with submission and yield a willing obedience to that expression of public opinion, to that public sentiment, to that indelible right which belongs to the great sovereigns of the commonwealth, to determine for themselves the principles of government, and rules of propriety, and rules of right, personal and political, that shall govern them and their posterity. Why, then, this alarm? Why this denunciation, immediately upon the eve of our departure from home, by the accredited organ of this assembly? Does the proposition I have offered, today make that constitution we have adopted better or worse? Does it change its features in principle or detail? Can any man—will any sane man who approves of the constitution, vote against it, because the majority of this body thought it was their duty to meet here, at great private and personal inconvenience, and spend the high duty they had voluntarily sought to be imposed upon them by their constituents?

You may blame me, as an individual member, for incurring what some may deem an unnecessary expense; but certainly, whether we meet and proclaim the constitution, or whether we leave it to the people, the constitution of state, to do it, does not change the constitution, or alter the judgment of any man upon this floor, or in this country. Again, I have heard it said the effect of that resolution is, that when this convention re-assembles in June next, they will go to work, in violation of the constitution which they have solemnly sworn to support, and will point out certain duties to be performed by the legislature—those districts the state for circuit jurisdiction, and appellate jurisdiction, and apportionment of representation, because of a democratic majority on the political side of this house in regard to national politics, for party and political purposes, they will question the hands upon the constitution which the people had approved, in order to gerrymander this state in its districts and apportionment, to prejudice the whig party in this commonwealth. It is hardly necessary for me to disavow, for myself or associates, such an intention. I only regret that the most violent and heated partizan of the house, I am here, as is well known, elected by a constituency with whom I differ politically, and in reference to questions of party politics I have endeavored to discharge the duty which was laid upon me, to report the constitution on which the people have placed their confidence, and the promulgation of our declaration. Why cannot this be done? Why have we not the power? Why have so many conventions pursued the same course, and why has this objection been hitherto raised?

I considered that there was not a doubt on this subject, as to the power of the convention to have we assembled? Do we represent here the sovereignty of Kentucky? We do. Is this convention a collection of people unrestrained by law; or are we a legally existing convention. We must be one or the other, for sovereignty can express itself but by two ways? It must be exercised by a constitutionally existing convention, assembled as we are, by color and sanction of law, or by revolution, when the people themselves, tired and oppressed, determine to take the power into their own hands, and by physical force overturn the existing government. We constitute the former, I apprehend, and we represent the latter. No constitutionally existing convention assembled as we are, by color and sanction of law, or by revolution, when the people themselves, tired and oppressed, determine to take the power into their own hands, and by physical force overturn the existing government. 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This image shows a blank, aged, cream-colored page, likely an endpaper or flyleaf of a book. The paper has a slightly textured appearance with some faint smudges and discoloration, characteristic of old paper. The left edge of the page is bound into a dark, possibly black, inner cover material. There is no text or other markings on the page.







